IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO.3141 OF 1989

Bashesharlal Prashar .. Petitioner

v/s.

Ward Officer, S.Ward Office,
Bombay Municipal Corporation,
Bhandup & anr. .. Respondents

None for the petitioner.

Mr.Vinod Mahadik for the respondents.

CORAM : R.M. LODHA AND
J.P. DEVADHAR, JJ.

DATED : 17th June, 2005

P.C.

None appears for the petitioner. Mr.Vinod Mahadik, the learned counsel appears for the respondents.

2. In the absence of the petitioner or his advocate, we perused the writ petition and the documents annexed thereto as we thought that disposal of writ petition in default may give rise to the avoidable proceeding for restoration.

3. The subject matter of controversy in this writ petition pertains to the notice No.7195 dated 12.10.1989 for demolition of hut No.27 1/1, Tirandaz Village, Opp. I.I.T. Main Gate, Mumbai. We find

from the proceedings that way back on 20.11.1989 this court granted interim relief and stayed further action pursuant to the impugned notice of demolition. The interim relief is operating for 16 years. The ground based on which the notice of demolition was issued may not be existing or may not be sustainable.

4. In our considered view, the notice of demolition needs to be set aside. If there is any unauthorised construction, it will be open to the respondents to act in accordance with law by giving proper notice as required under Mumbai Municipal Corporation Act, 1888 and after giving reasonable opportunity of being heard to the noticee, pass an appropriate order.

5. Rule is made absolute in the aforesaid terms.

No costs.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)